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CHARLES ELMORE GROPLEY
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1940

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No. 637

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MEYER ABRAMS,

Petitioner,

vs.

LEHIGH VALLEY RAILROAD COMPANY, et al.,

Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE SPECIAL COURT OF THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA, AND BRIEF IN SUPPORT THEREOF

MEYER ABRAMS,

Petitioner,
Counsel Per Se.



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**PETITION FOR WRIT OF CERTIORARI TO THE
SPECIAL COURT OF THE DISTRICT COURT OF
THE UNITED STATES FOR THE EASTERN DIS-
TRICT OF PENNSYLVANIA**

*To the Honorable, the Chief Justice and the Associate
Justices of the Supreme Court of the United States:*

Petitioner, Meyer Abrams, prays the issuance of a Writ of Certiorari to the Special Court organized under the Railroad Adjustment Act in the District Court of the United States for the Eastern District of Pennsylvania to review its order of October 21, 1940, denying compensation to the petitioner on jurisdictional grounds.

Statement of the Matter Involved.

The Lehigh Valley Railroad Company and three of its subsidiary corporations filed their petitions on

August 7, 1939, seeking relief under the provisions of Chapter XV of the Bankruptcy Act (11 U. S. C. A. (c) (15)). A Special Court of three judges was at once convened as directed by Section 713 of the Bankruptcy Act (11 U. S. C. A. Sec. 1213). Thereupon (R. 1-2) the court approved the petitions as properly filed, directed that hearings be had and at the conclusion of its hearings rendered its opinion on August 7, 1940, approving the Plan and entered its decree on the same day.

Petitions for fees were filed by leave of court. Petitioner, counsel for the Harvard State Bank, one of the creditors, filed his petition for fees pursuant to the order. The court entered its order on October 21, 1940, allowing fees only to the parties and attorneys whose debts were incurred by the debtor and denied compensation to petitioner and others who were retained by creditors, on the ground that only expenses incurred by the debtor may be allowed and that the court was without jurisdiction to allow any compensation to attorneys for creditors to which the debtor did not consent even if the services were valuable (R. 3-4). Its decision was based on the opinion *In Re Baltimore & Ohio R. R. Co.*, 34 F. Supp. 154.*

Question Presented.

The only question presented is the correctness of the construction of Section 1225 (6) as a limitation on the power or jurisdiction of the court to allow compensation to attorneys for creditors even when their services were beneficial to the estate. The merits of the services are not for review here for the reason that the court denied the compensation on lack of jurisdiction to allow any

* A petition for certiorari was also filed here by Isidore H. Schweidel, another attorney who was denied compensation by the same order. We suggest that both petitions be considered simultaneously. The decision reported in 34 F. Supp. p. 154 is involved in the petition for certiorari in case number 598-599.

expenses and compensation for services rendered by attorneys for creditors who were not engaged by the debtor.

Reasons for the Allowance of the Writ.

1. The Special Court decided an important question of Federal Law which has not been but should be settled by this court.
2. The decision is in conflict with applicable decisions of this court pertaining to the inherent jurisdiction of Equity and Bankruptcy Courts to allow compensation to attorneys who rendered services for the benefit of an estate administered there.
3. The decision that in a proceeding to approve a debtor's Plan affecting the rights of creditors only such fees to attorneys whom the debtor was willing to retain may be paid out of the estate and that each creditor who is brought into the proceedings must personally pay expenses and fees (no matter how valuable the services were to the whole estate) is not in harmony with the accepted and usual course of judicial proceedings in reorganization matters.
4. The decision placed a narrow and unreasonable construction on the most recent amendment to the Bankruptcy Law and the writ should be issued to give effect to the legislative intent.

Prayer for Relief.

Petitioner therefore prays the allowance of a Writ of Certiorari to the three-judge Special Court appointed under the Railroad Adjustment Act in the District Court of the United States for the Eastern District of Pennsylvania, to the end that the order of October 21, 1940, be reversed with directions to consider petitioner's petition on its merits.

MEYER ABRAMS,

Petitioner.